

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

Aleta Swann Cullum,

Debtor(s).

C/A No. 18-05723-HB

Chapter 13

**ORDER DENYING MOTION TO
RECONSIDER RELIEF FROM
AUTOMATIC STAY**

THIS MATTER came before the Court for hearing on May 14, 2019, on the Motion¹ of Debtor Aleta Swann Cullum to reconsider the order entered on March 14, 2019, granting relief from the automatic stay of 11 U.S.C. § 362 (“Stay Order”).² The Stay Order granted relief to Movant Secretary of Veterans Affairs (“VA”), regarding property located at 662 Seymour Drive, North Augusta, SC 29841 (the “Property”). Present at the hearing were Peter Korn of Moss & Associates, Attorneys, P.A., counsel for the Debtor, and T. Lowndes, Pope, of Riley Pope & Laney, LLC, counsel for VA.

The facts are not in dispute. On August 6, 2018, the Property was sold at a foreclosure sale. Two months later on November 8, 2018, Debtor filed bankruptcy. Debtor did not own the Property when this case was filed. Despite this, Debtor proposed a Chapter 13 plan that provided for payment of the mortgage that was secured by the Property. VA then sought relief from the automatic stay, asserting it is the owner of the Property and requesting that any applicable stay be lifted for it to pursue actions in state court (e.g., evicting the Debtor from the Property). Debtor objected to lifting the stay. Thereafter, the Chapter 13 Trustee requested confirmation of the plan and it was confirmed on March 9,

¹ ECF No. 39, filed Apr. 12, 2019.

² ECF No. 37.

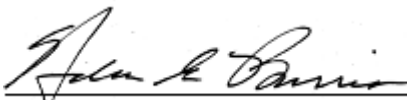
2019.³ On March 14, 2019, Debtor withdrew her objection to the request for stay relief, stating that “Debtor no longer owns the property.” At the request of VA, the Stay Order was entered the same day.

On April 12, 2019, Debtor’s counsel filed this Motion, asserting relief from stay should not have been granted because VA is bound by the terms of the confirmed plan that proposed to pay the mortgage, citing 11 U.S.C. §§ 1325(a)(5)(A), 1327, and *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 267, 130 S. Ct. 1367, 1375, 176 L. Ed. 2d 158 (2010). Debtor’s Motion is without merit. Confirmation of the plan did not change the fact that Debtor does not own the Property and there is no longer a mortgage to pay. Further, all facts asserted by Debtor here for reconsideration were known at the time the objection to stay relief was withdrawn and the Stay Order was entered. Therefore, no grounds have been demonstrated for relief from the Order pursuant to Fed. R. Civ. P. 59 or 60.⁴

IT IS, THEREFORE, ORDERED that the Motion is **DENIED** and the Stay Order remains in full force and effect.

FILED BY THE COURT
05/14/2019




US Bankruptcy Judge
District of South Carolina

Entered: 05/14/2019

³ The Court was not aware that Debtor no longer owned the Property.

⁴ Made applicable to this case pursuant to Fed. R. Bankr. P. 9023 and 9024.